

Thursday, 13 June 1946

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INTERNATIONAL MILITARY TRIBUNAL  
FOR THE FAR EAST  
Chambers of the Tribunal  
War Ministry Building  
Tokyo, Japan

PROCEEDINGS IN CHAMBERS

ON

Hearing on Application of Japanese Defense Counsel for the Accused, HIRANUMA, Kiichiro; KAYA, Okinori; SHIGEMITSU, Mamoru; SUZUKI, Teichii, and UMEZU, Yoshijiro, for leave to file motions directed to the Administration on Interrogatories to be directed to the Pope and others.

Before:

HON. SIR WILLIAM WEBB, President of the Tribunal and Member from the Commonwealth of Australia.

Appearances:

For the Prosecution Section:

MR. CARLYLE HIGGINS, Acting Chief Counsel, representing Mr. Joseph B. Keenan, acting on behalf of the United States of America;

MR. A. S. COMYNS CARR, Associate Counsel, acting on behalf of the United Kingdom of Great Britain and Northern Ireland;

MR. EUGENE B. WILLIAMS; and

MR. FRANK S. TAVENNER, JR.

For the Defense Section:

USAMI, Rokuro, Counsel for Accused HIRANUMA, Kiichiro;

TAKAYANAGI, Kenzo, Counsel for Accused SHIGEMITSU, Mamoru;

HASEGAWA, Motokichi, Counsel for Accused SUZUKI, Teiichi; and

BEN BRUCE BLAKENEY, Major, AUS, AC.

For the Office of General Secretary, IMTFE:

EDWARD H. DELL, Judge,  
Legal Adviser to the Secretariat;

G. WALTER BOWMAN, Clerk of the Court.

For the Language Section:

ENSIGN DAVID F. HORNSTEIN, Chief;  
MOTONO, Seiichi; and  
MASUTAMI, Hidro.

The proceedings were begun at 0915.

THE PRESIDENT: This is an application for leave to file certain motions directed to the Administration that certain interrogatories be sent to the Pope and others.

You are appearing here for the applicants?

DR. USAMI: I am appearing for HIRANUMA. The other counsel -- they didn't know.

THE PRESIDENT: They were notified and are not here. However, you will be able to conduct the proceedings on behalf of the defense.

MAJOR BLAKENEY: I don't know if he should or not.

DR. USAMI: It is leave to file a motion. That is the matter we are here for.

THE PRESIDENT: What have you to say, Dr. TAKAYANAGI, in support of your application?

MAJOR BLAKENEY: He can speak English; he doesn't need an interpreter.

DR. TAKAYANAGI: The application, I think, is more or less self-explanatory, but I would like to add that the President of this Tribunal has indicated that the trial will be conducted according to law. I understand "according to law" means two things:

First, that power submits itself to reason and justice. Now the Allied Powers, I believe, are almighty, vis-a-vis, defeated Japanese, but they have decided to exercise their powers according to reason and justice, and that is a very binding policy.

The second meaning of justice according to law means, I believe, that an individual has got to be tried according to natural reasons and justice, not artificial reasons; and, according to that, as expounded by the law made in that famous conference in 1612 before King James I, life and property are the fortunes of Englishmen and are not to be deprived unless by natural reasons, not artificial reasons.

THE PRESIDENT: May I explain my decision? The arguments you are using are -- I wouldn't say they are propaganda, but I am a duly appointed delegate, and a delegate cannot delegate his powers to another: The principle of delegatus non potest delegare. I am merely a delegate, and I have to exercise the powers given to me; I can't transfer them to somebody else.

That is exactly the position of your argument. Your appeal is directed to the wrong quarters. It should have been addressed to those who are responsible for this Tribunal: The Allied Powers. I have

no disposition to grant your request, which is refused.

(Whereupon, at 0925, the proceedings were concluded.)